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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,698	12/05/2003	Virginia Tarpinian	2595U.001	4597
21917 75	590 11/26/2004		EXAMINER	
MCHALE & SLAVIN, P.A.			WILLIAMS, MARK A	
	2855 PGA BLVD PALM BEACH GARDENS, FL 33410  ART UNIT		PAPER NUMBER	
			3676	
			DATE MAILED: 11/26/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
	10/729,698	TARPINIAN ET AL.	X		
Office Action Summary	Examiner	Art Unit			
	Mark A. Williams	3676			
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the o	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a rep - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailir earned patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply be tirely within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE	nely filed  rs will be considered timely.  the mailing date of this communication.  ED (35 U.S.C. § 133).			
Status	,				
1) Responsive to communication(s) filed on					
2a) This action is <b>FINAL</b> . 2b) ☑ This	s action is non-final.				
3) Since this application is in condition for allowated closed in accordance with the practice under the condition of the	•				
Disposition of Claims	•				
4) ☐ Claim(s) 1-11 is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-7,10 and 11 is/are rejected. 7) ☐ Claim(s) 8,9 is/are objected to. 8) ☐ Claim(s) are subject to restriction and/o	awn from consideration.				
Application Papers					
9)☐ The specification is objected to by the Examine	er.				
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.					
Applicant may not request that any objection to the	drawing(s) be held in abeyance. See	∍ 37 CFR 1.85(a).			
Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E			•		
Priority under 35 U.S.C. § 119					
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Bureat * See the attached detailed Office action for a list	ts have been received. ts have been received in Applicati prity documents have been receive tu (PCT Rule 17.2(a)).	on No ed in this National Stage			
Attachment(s)    Notice of References Cited (PTO-892)   Notice of Draftsperson's Patent Drawing Review (PTO-948)   Notice of Draftsperson's Patent Drawing Review (PTO-948)	4)  Interview Summary Paper No(s)/Mail Da	(PTO-413)			
Paper No(s)/Mail Date <u>12/5/03</u> .	6) Other:				

Application/Control Number: 10/729,698

Art Unit: 3676

#### **DETAILED ACTION**

# Claim Rejections - 35 USC § 103

- 1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 2. Claims 1, 3, 5-7, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley, US Patent 4,754,379, in view of Kreutzer, US Patent 4,402,542. Kelly teaches the general concept of a device for strapping a handle to an object of a cylindrical shape, such a piling (or post). Kelly teaches each of the claimed limitations except for a base member constructed of flexible material. Kreutzer teaches the concept of a base member 2 meeting the claimed limitations, for the purpose of providing a snug fit retention of a strapped object. It would have been obvious at the time the invention was made for one skilled in the art of have included in the design of Kelly such a modification, for the purpose of providing a snug fit retention of a strapped object. The claimed method is inherent to the design.

Application/Control Number: 10/729,698

Art Unit: 3676

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Kreutzer in further view of Uccellini, US Patent 4,226,349. The combination does not explicitly teach wood engaging means as claimed. Such means for engaging wood are well known in the art for prevention of slippage. Uccellini teaches this concept. It would have been obvious at the invention was made for one skilled in the art to have included such a modification in the design of the combination, for the purpose of preventing slippage.

Page 3

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelly in view of Kreutzer. The combination does not explicitly teach the handle and the base member being of wood material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have done this, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. See also *Ballas Liquidating Co. v. Allied industries of Kansas, Inc.* (DC Kans) 205 USPQ 331. Such a modification is not critical to the design and would have produced no unexpected results.

Art Unit: 3676

# Allowable Subject Matter

4. Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Application/Control Number: 10/729,698

Art Unit: 3676

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mark Williams

11/22/04

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Page 5